



---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F22A/0285**

**Appeal** by Hillwatch care of Seabarm of Strand Road, Strand Road, Sutton, Dublin against the decision made on the 24<sup>th</sup> day of November, 2022 by Fingal County Council to grant subject to conditions a permission to Joe Sweeney care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** (i). Demolition of existing two bedroom single storey dwelling, single storey garage and ruins of shed; (ii). construction of two-storey dwelling with a split level at ground floor to provide an entrance. The proposed dwelling will comprise three number en suite bedrooms at lower ground floor, kitchen, living room, utility room, snug, storage/plant room, wine room, dining room, WC and cloak room at ground floor level, and one number ensuite bedrooms and entrance at upper ground floor/entrance level. Each floor will be served by a stairwell and lift core; (iii). provision of terraces at lower ground and ground floors; (iv). provision of on-curtilage car parking to the north of house; and (v). drainage, landscaping, boundary treatments and all associated works necessary to facilitate this development; all at Glenlion Chalet, Thormanby Road, Howth, County Dublin as revised by the further

public notice received by the planning authority on the 6<sup>th</sup> day of October, 2022.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to the provisions of the Fingal County Development Plan 2023-2029, including the 'RS' objective that applies to the site, the relevant provisions of the Howth Special Amenity Area Order 1999, the scale, form, design and location of the proposed dwelling, the specific characteristics of the site including the mature tree cover, its topography and vegetation cover, and the established and emerging pattern of development in the surrounding area including the permitted development to the West, it is considered that, subject to compliance with the conditions set out below, this proposed replacement dwelling could be assimilated into the landscape and would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would not impinge on the character, integrity and distinctiveness of this highly sensitive area, would not be contrary to the objectives of the Howth Special Amenity Area and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept its Inspector's recommendation to refuse permission, the Board gave careful consideration to all the documentation submitted including the Visual Impact Assessment submitted by the applicant at further information stage. While the Board understood the concern of the Inspector, it

ultimately deferred to the assessment of the planning authority and shared its view that, subject to conditions, the proposed development could be successfully integrated within the protected views.

### **Preliminary Environmental Impact Assessment examination.**

Having regard to the nature, size, scale and location of the proposed development, the Board considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **Appropriate Assessment Screening:**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would have the potential to have a significant effect on Howth Head Special Area of Conservation (site code: 000202) in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is, therefore, required.

### **Appropriate Assessment**

Having regard to the nature, scale and design of the proposed development, the Natura impact statement submitted with the application, the submissions on file and the Inspector's assessment, the Board completed an appropriate assessment of the impacts of the proposed development on European sites.

Following an Appropriate Assessment, the Board adopted the conclusions of its Inspector and determined that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the Howth Head Special Area of Conservation (site code: 000202), or any other European site, in view of the sites' Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project alone (and in combination with other projects) including possible construction related pollution, wastewater treatment and invasive species.

Measures designed to prevent adverse effects have been incorporated into a construction management plan.

There is no reasonable scientific doubt as to the effectiveness of these measures and therefore no doubt as to the absence of adverse effects on the conservation objectives of Howth Head Howth Head Special Area of Conservation.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 30<sup>th</sup> day of September 2022 and on the 6<sup>th</sup> day of October, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The entire premises be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

**Reason:** In the interest of clarity and of proper planning and sustainable development.

3. The proposed terrace at ground floor level (drawing number A-121 submitted to the planning authority on the 30<sup>th</sup> day of September, 2022) shall be amended to show the omission of the eastern angular cantilever above the lower ground floor level.

**Reason:** In the interest of visual amenity.

4. The colour of external finishes to be agreed in writing with the planning authority prior to the commencement of development. The use of any white or cream colours or external finishes that increase the visibility of the house within the landscape to be omitted.

**Reason:** In the interest of visual amenity.

5. The developer shall use low glare glazing or glazing to that effect on the southern elevation.

**Reason:** In the interest of the proper planning and sustainable development of the area.

6. All bathroom/en suite windows and as otherwise indicated shall be fitted and permanently maintained with obscure glass; use of film is not acceptable.

**Reason:** In the interest of residential amenity.

7. Obscure privacy screens, circa 1.8 metres in height, shall be fitted to the western side of the terraces above lower ground level.

**Reason:** In the interest of residential amenity.

8. The developer shall comply with the following requirements of the planning authority:
- (a) no foul drainage shall discharge into the surface water system under any circumstances,
  - (b) The foul drainage shall be in compliance with the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2021,
  - (c) No surface water/rainwater shall discharge into the foul water system under any circumstances.
  - (d) The surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006, and
  - (e) the soakaway shall comply with BRE Digest 365, the Greater Dublin Strategic Drainage Strategy, designed to accommodate

the 30-year critical duration storm event from all additional impermeable surfaces, include for climate change, use local rainfall data, and be at least five metres from any structure and 3 metres from any boundary.

**Reason:** In the interest of public health.

9. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

**Reason:** In the interest of public health.

10. The following requirements of the planning authority shall be complied with in full:-
  - (a) the landscape plan shall be implemented within the first planting season following substantial completion of construction works, under the appointed landscape architect's supervision,
  - (b) any tree or hedge planting failures shall be replaced by the developer until such time that the plantings have become established, and

- (c) a tree bond of €5,000 (five thousand euro) shall be lodged with the Council prior to commencement of development in order to ensure that the trees are protected and maintained in good condition throughout the course of development. This bond will be held by Fingal County Council for a period of two years post construction which may be extended in the event of possible construction related defects.

**Reason:** In the interest of the proper planning and sustainable development of the area.

11. During the construction stage of the proposed development the mitigation measures as contained in the revised Natura Impact Statement, the revised Outline Construction Management Plan (including the drawing entitled the Proposed Construction Site Setup Details), the Invasive Species Survey and Management Plan as well as in the Ecological Impact Assessment (EclA) shall be implemented in full to protect the receiving environment.

**Reason:** In the interests of the protection of the receiving environment and of the proper planning and sustainable development of the area.

12. Prior to commencement of the development, the developer shall submit for the written agreement of the planning authority a site specific final construction and traffic management plan for the subject site.

**Reason:** In the interest of the proper planning and sustainable development of the area.



13. Prior to first occupation of the dwelling hereby approved the existing dwelling shall be demolished on site.

**Reason:** In the interest of clarity.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

15. The developer shall comply in full with the following:-
- (a) all necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developer's own expense, and

- (b) the applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

**Reason:** To protect the amenities of the area.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased

payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



---

**Joe Boland**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

Dated this *1<sup>ST</sup>* day of *March* 2024.